

REMARKS

Claims 1-44 are pending in this application. Claims 1, 7, 13, 19, 25, 30, 35, and 40 are independent claims. No claims are presently amended, and no claims are canceled in the foregoing listing of claims. Reconsideration and allowance of the present application are respectfully requested.

Claim Rejections under 35 U.S.C. § 103(a) – Hall in view of Lopponen

Claims 1-44 stand finally rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,032,051 to Hall et al. (hereinafter “Hall”) in view of U.S. Patent Publication No. 2002/0150091 to Lopponen et al. (hereinafter “Lopponen”). Applicants respectfully traverse this rejection, as detailed below.

MPEP 706.02(j) sets forth the standard for a Section 103(a) rejection:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Additionally, the recently published “Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in View of the Supreme Court Decision in *KSR International Co. v. Teleflex Inc.*”, (hereinafter “KSR Guidelines”) further supports the basic requirement for a finding of obviousness as clearly articulated in the following:

To reject a claim based on this rationale, Office personnel must resolve the Graham factual inquiries. Office personnel must then articulate the following:

- (1) a finding that the prior art included each element claimed, although not necessarily in a single prior art reference, with the only difference between the claimed invention and the prior art being the lack of actual combination of the elements in a single prior art reference;

(2) a finding that one of ordinary skill in the art could have combined the elements as claimed by known methods, and that in combination, each element merely would have performed the same function as it did separately;

(3) a finding that one of ordinary skill in the art would have recognized that the results of the combination were predictable; and

(4) whatever additional findings based on the Graham factual inquiries may be necessary, in view of the facts of the case under consideration, to explain a conclusion of obviousness.

The rationale to support a conclusion that the claim would have been obvious is that all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded nothing more than predictable results to one of ordinary skill in the art at the time of the invention. “[I]t can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does.” If any of these findings cannot be made, then this rationale cannot be used to support a conclusion that the claim would have been obvious to one of ordinary skill in the art.

The 35 U.S.C. § 103(a) obviousness rejection of claims 1-44 is improper because the elements for a *prima facie* case of obviousness are not met. Specifically, the rejection fails to meet the criterion that the prior art must teach or suggest all the claims’ limitations or as stated in the KSR Guidelines “a finding that the prior art included each element claimed.”

Applicants’ independent claim 1, for example, is directed to sharing user information in a wireless communication network, including “*registering at the GCS that no response was received from the target... [and] receiving information by the originator from the GCS containing information about the target in response to the alert.*” Independent claims 7, 13, 19, 25, 30, 35, and 40 recite similar features. Applicants respectfully reassert that Hall and Lopponen, either alone or in combination, fail to teach or suggest at least this feature of the independent claims, as detailed below.

The Examiner acknowledges that Hall does not disclose registering at the GCS that no response was received from the target... [and] receiving information by the originator from the GCS containing information about the target in response to the alert, but alleges that this feature is taught by Lopponen (Final Office Action, pgs. 3-4). Applicants disagree.

In the Final Office Action, with regard to FIG. 6 of Lopponen, the Examiner maintains that Lopponen teaches a ‘group managing user 61’ equivalent to the claimed ‘originator,’ a ‘group management application (GMA) 64’ equivalent to the claimed ‘group communication server GCS,’ and a ‘user 62’ equivalent to the claimed ‘target.’ According to Lopponen, when group managing users 61 create groups, they invite users 62 to join the groups through GMA 64. GMA 64 provides the group managing users 61 a user interface with which to “create groups, define and modify group access rights, and send notifications about new groups to users” (paragraph. [0138]).

In response to previously filed arguments, the Examiner in the Final Office Action alleges that in Lopponen:

The mobile devices that are powered off will be non responsive due to the fact that said devices are powered off. There will thus need to be an indication/notification of some sort to the group managing user via the GMA that the group member(s) is/are unavailable, which is an indication that no response is received and also information about said group member(s) in response to the alert, which is the SMS notification. (Final Office Action, pg. 2).

What the Examiner appears to be suggesting is that if one of the users 62 invited to join a group happens to be powered off when the invitation is sent, there will be a need to send an indication/notification via GMA 64 to alert the group managing user 61. According to the Examiner, GMA 64 would somehow register which users 62 did not receive the invitation, and the indication/notification would be sent via GMA 64 to group managing user 61 to indicate that those invited users 62 are unavailable.

However, Lopponen provides no actual support for the Examiner’s allegations. GMA 64 is merely a broadcast application that allows group managing users 61 to easily create groups, define and modify group access rights, and send notifications about new groups to users, as quoted above. When a new group is created, GMA 64 broadcasts a notification of a group to users 62, sends a group name to DNS server 24, and sends access rights information to group access rights database 65. No reverse communications between user 62 and GMA 64 or between group managing user 61 and GMA 64 is disclosed or suggested with regards to FIG. 6. Regardless of whether the Examiner believes there is a need to do so, there is simply no teaching

or suggestion in Lopponen of sending an indication/notification back to group managing users 61 from GMA 64 as alleged.

Furthermore, FIG. 6 clearly shows only a one-way communications link (one-way arrow) between group managing users 61 and GMA 64, as opposed to the two-way communications link that would be necessary to send the alleged indication/notification. This is not simply an illustrative convenience, as, in contrast, a two-way communications link (two-way arrow) is explicitly shown between call processing server (CPS) 23 and group access rights database 65 to facilitate access rights queries, which suggests that if a two-way communications link did in fact exist between group managing users 61 and GMA 64, it would have been illustrated. This interpretation is consistent with the description above of the three messages sent by GMA 64 when a new group is created, none of which are sent to the group managing user 61. FIG. 6 also clearly shows that if an invited user 61 chooses to accept the group invitation, he joins the group (or establishes a session) through CPS 23, not GMA 64. Thus, GMA 64 is not disclosed as receiving an indication when the user 62 decides to join the group, which presumably the group managing user 61 might need to know as well, which suggests that GMA 64 does not necessarily need to receive an indication from GMA 64 directly concerning whether an invited user 62 is responsive or not to the broadcasted invitation.

As a further Example, Applicants note that Lopponen discloses that the notification of a new group is a special form of an SMS message (para. [0142]), which also forms the basis for well-known text messaging. If person A sends a text-message to person B while person B's wireless device is powered off, person A does not automatically get an indication/notification alerting them that person B is being unresponsive. The serving node simply holds that text-message until person B is once again available. An analogous scenario appears to be true in Lopponen. Group invitations are broadcast to designated invited users 62 using SMS messages, whereby the users may respond by "1) displaying to the user that a new group is available to this user; 2) giving the MS user a choice of joining immediately (starting an active session; normal or sticky) or bookmarking for later use, or rejecting (a reject message will be sent to the group creation/management application GMA which may display it to the managing user)" (para. [0141]). No separate responses from GMA 64 are disclosed. Moreover, the logistics of handling

such an indication/notification for extremely large groups with thousands if not more invited users 62 also calls into question the Examiner's interpretation of Lopponen.

In short, Applicants submit that there is simply no teaching or suggestion in Lopponen of sending an indication/notification back to group managing users 61 from GMA 64 as alleged by the Examiner, but that to the contrary, Lopponen suggests that no such messages are in fact sent. While the 35 U.S.C. § 103(a) obviousness rejection requirement that the prior art reference (or references when combined) must teach or suggest all the claim limitations presupposes knowledge of one skilled in art of the claimed invention, such "presumed knowledge **does not grant a license to read into prior art reference teachings that are not there,**" see *Motorola Inc. v. Interdigital Technology Corp.* USPQ2d 1481, 1490 (Fed. Circ. 1997), emphasis added.

Accordingly, Hall in view of Lopponen cannot render as obvious, under 35 U.S.C. §103(a), Applicants' invention as presently claimed in independent claims 1, 7, 13, 19, 25, 30, 35, and 40.

SUMMARY

Since the Examiner has maintained his rejection of claims 1-44 under 35 U.S.C. § 103 as noted above, Applicants once again traverse these rejections. Applicants expressly maintain the reasons from the prior responses to clearly indicate on the record that Applicants have not conceded any of the previous positions relative to the maintained rejections. For brevity, Applicants expressly incorporate the prior arguments presented in the October 19, 2007 response without a literal rendition of those arguments in this response.

For at least the foregoing reasons and the reasons set forth in Applicants' response of October 19, 2007, it is respectfully submitted that claims 1, 7, 13, 19, 25, 30, 35, and 40 are distinguishable over the applied art. The remaining dependent claims are allowable at least by virtue of their dependency on the above-identified independent claims. See *In re Fine*, 5 USPQ.2d 1596, 1600 (Fed. Cir. 1988). See also MPEP § 2143. Moreover, these claims recite additional subject matter, which is not suggested by the documents taken either alone or in combination.

Therefore, Applicants respectfully request that the Examiner withdraw the 35 U.S.C. § 103(a) obviousness rejection of claims 1-44.

REQUEST FOR ALLOWANCE

In view of the foregoing, Applicant submits that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Deposit Account Authorization

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

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